

RECEIVED

NOV 22 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Advanced Television Systems
and Their Impact upon the
Existing Television Broadcast
Service

)
)
)
)
)
)

MM Docket No. 87-268

To: The Commission

DOCKET FILE COPY ORIGINAL

COMMENTS OF NEXTEL COMMUNICATIONS, INC.

NEXTEL COMMUNICATIONS, INC.

Robert S. Foosaner
Senior Vice President -
Government Affairs

Lawrence R. Krevor
Director - Government Affairs

Laura L. Holloway
General Attorney

Nextel Communications, Inc.
800 Connecticut Avenue, N.W.
Suite 1001
Washington, D.C. 20006
202-296-8111

Date: November 22, 1996

No. of Copies rec'd 04
List ABCDE

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Advanced Television Systems)
and Their Impact upon the) MM Docket No. 87-268
Existing Television Broadcast)
Service)

To: The Commission

COMMENTS OF NEXTEL COMMUNICATIONS, INC.

I. INTRODUCTION

Pursuant to Section 1.415 of the Rules of the Federal Communications Commission ("Commission"), Nextel Communications, Inc. ("Nextel") respectfully submits these Comments on the Commission's Sixth Further Notice Of Proposed Rule Making ("NPRM") in the above-captioned proceeding.^{1/}

In the NPRM, the Commission proposes its channel allotments for Digital Television ("DTV"). Among the channels it proposes to use for DTV, albeit on a very limited basis, is UHF Channel 69. This channel historically has been used by broadcasters on a very limited basis since in some cases it has caused harmful interference to pre-existing adjacent land mobile radio systems, including 800 MHz Specialized Mobile Radio ("SMR") operations.^{2/} In fact, the interference caused to land mobile operations by Channel 69 broadcast operations was so severe that the Commission

^{1/} Sixth Further Notice of Proposed Rule Making, MM Docket No. 87-268, FCC 96-317, released August 14, 1996.

^{2/} See, e.g., Broadcast Corp. of Georgia, *Memorandum Opinion and Order*, 96 FCC 2d 901 (1984).

eventually froze all Channel 69 applications until the Commission could resolve the ongoing interference problems between broadcasters and land mobile licensees.

Given this evidence of harmful interference between the two services, Nextel opposes the use of Channel 69 for DTV in any market. Alternatively, Nextel proposes that (1) the Commission allot Channel 69 for DTV only in those cases where no other broadcast channel is available; and (2) make Channel 69 DTV services secondary to existing land mobile operations in that market, *i.e.*, condition the DTV license for Channel 69 on the duty to identify potential cases of interference, install the necessary equipment to protect against such interference, and provide evidence prior to commercial operations that no interference is being caused to the adjacent channel licensee.^{3/}

II. DISCUSSION

The Commission's proposal to allot Channel 69 to DTV, even on a limited basis,^{4/} may pose significant interference problems for existing 800 MHz private operators and SMR operators. Since the reallocation of UHF channels to land mobile radio operations in the

^{3/} This is the responsibility currently placed on analog NTSC broadcasters licensed on Channel 69. See Report and Order, MM Docket No. 87-465, 6 FCC Rcd 5148 (1991) at para. 28.

^{4/} In the Table of Allotments attached to the FNPRM, the Commission proposes to use Channel 69 for DTV in five markets: (1) Aguadilla, Puerto Rico; (2) Kingston, New York; (3) Chicago, Illinois; (4) Washington, D.C.; and (5) Stockton, California.

mid-1970's,^{5/} there have been several cases of broadcasters causing harmful interference to adjacent channel land mobile operators. Although it is likely that the potential for interference from a DTV signal will not be identical to the interference caused by analog NTSC signals, the Commission should not allocate Channel 69 to DTV operations in any market. If the Commission, as a last resort, must allot Channel 69 to DTV in a particular market, it should make a specific determination of potential interference to existing land mobile systems and condition the DTV license on preventing all such harmful interference to the land mobile licensee.

Accordingly, Nextel agrees with the Commission's decision to "attempt to minimize the number of DTV channels that would be located on Channels 60-69." It is only Channel 69, which is directly adjacent to the land mobile radio spectrum, that poses a threat to existing land mobile businesses. The restriction proposed herein will not significantly hinder the Commission's ability to recover "substantial amounts of spectrum" and rapidly make it available to the public,^{6/} and at the same time, prevent harmful interference to existing land mobile operations.

^{5/} First Report and Order and Second Notice of Inquiry, Docket No. 18262, 35 FR 8644 (June 4, 1970); Second Report and Order, Docket No. 18262, 46 FCC 2d 752 (1974); *modified on recon.*, Memorandum Opinion and Order, Docket No. 18262, 51 FCC 2d 945 (1975); *aff'd* National Association of Regulatory Utility Commissioners v. FCC, 525 F.2d 630 (DC Cir. 1975).

^{6/} *Id.* at para.

III. CONCLUSION

For the reasons discussed herein, Nextel respectfully requests that the Commission avoid the allotment of Channel 69 for DTV use in any market. If there are markets in which such allotments are unavoidable, Nextel requests that the Commission condition such DTV licenses on the prevention of harmful interference to land mobile radio operations. DTV operations on Channel 69 should be secondary to existing land mobile operations and therefore not permitted to commence service until the DTV licensee has evidenced that its operations will not adversely impact the land mobile licensee.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Robert S. Foosaner", is written over a horizontal line.

Robert S. Foosaner
Senior Vice President -
Government Affairs

Lawrence R. Krevor
Director - Government Affairs

Laura L. Holloway
General Attorney

Nextel Communications, Inc.
800 Connecticut Avenue, N.W.
Suite 1001
Washington, D.C. 20006
202-296-8111

Date: November 22, 1996

CERTIFICATE OF SERVICE

I, Rochelle L. Pearson, hereby certify that on this 22nd day of November 1996, caused a copy of the attached Comments of Nextel Communications, Inc. to be served by first-class mail, postage prepaid to the following:

Alan R. Shark
Jill Lyons
American Mobile Telecommunications
Association, Inc.
Suite 250
1150 18th Street, NW
Washington, DC 20036

Michael Lewis
Wiley, Rein & Fielding
1776 K Street, NW
Washington, DC 20006

Mary Brooner
Motorola, Inc.
Suite 400
1350 Eye Street, NW
Washington, DC 20005


Rochelle L. Pearson